IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

APPEAL FROM ORDER NO.400 OF 2005

Mrs.Anuradha Sharma. ... Appellant.

Versus.

The Municipal Corporation of
Greater Mumbai. ... Respondents.

Shri R.K.Desai for the Appellant.

Ms.Geeta Joglekar for the Respondents.

CORAM : ABHAY S. OKA, J.

DATED : 25th April, 2005.

P.C.:

1. Admit. The Respondent waives service.

2. By the impugned order dated 4th March 2005, the prayer for ad-interim injunction made by the Appellant/Plaintiff has been rejected. I have heard the learned Counsel appearing for the parties.

3. The Respondent-Corporation issued notice dated 16th December 2003 alleging that the owner/occupier has carried out unauthorised construction as mentioned in the notice. The notice was addressed to the husband of the Appellant Shri Satish Sharma. A reply was given by the Appellant on 23rd December 2003 to the said notice. The husband of the Appellant has given a separate reply on the same day. Various contentions are raised in the reply filed by the Appellant and documents are produced along with the reply.

4. The order dated 3rd February 2005 passed by the Assistant Commissioner of the Respondent prima facie shows that the reply filed by the Appellant is not considered.

5. In view of this position, in my view ad-interim relief deserves to be granted in favour of the Appellant. Hence the following order is passed:

(i) The impugned Judgment and Order is quashed and set aside. Till disposal of the Notice of Motion No.908 of 2005, both the parties will maintain statusquo as of today in respect of the suit structure.

(ii) All questions on merit in the pending Notice of Motion and the suit are expressly kept open.

(iii) The Appeal is disposed of in the above terms with no order as to costs.

(iv) Parties and the trail Court to act on an authenticated copy of the order.

Judge.